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June 16, 2021

VIA ECF

Honorable Debra C. Freeman
Magistrate Judge
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Bookends & Beginnings LLC v. Amazon, et al.*,
Case No. 21-cv-02584-GHW-DCF (S.D.N.Y.)

Dear Judge Freeman:

The parties¹ submit this letter in support of their stipulation. Defendants requested a pre-motion conference to address their intended motions to dismiss. [ECF 43 & 44.] In response, Plaintiff submitted that the Court need not schedule a pre-motion conference at this time because Plaintiff did not intend to proceed on its current complaint. [ECF 49.] Plaintiff further advised the Court that if it chose to amend, it would meet and confer with Defendants regarding a proposed deadline because Defendants' filing of a pre-motion conference request is not "service of a motion" to dismiss and therefore does not trigger the 21-day window contemplated by Rule 15(a)(1)(B) to file an amended complaint as a matter of right.²

¹ Plaintiff Bookends & Beginnings LLC and Defendants Amazon.com, Inc.; Hachette Book Group, Inc.; HarperCollins Publishers L.L.C.; Macmillan Publishing Group, LLC; Penguin Random House LLC; and Simon & Schuster, Inc.

² *M.E.S., Inc. v. Liberty Mut. Sur. Grp.*, No. 10-CV-02798, 2014 U.S. Dist. LEXIS 1055, at *22-23 (E.D.N.Y. Jan. 6, 2014) (Holding that plaintiffs retained their right to file an amended complaint as a matter of right because defendants' filing of a pre-motion conference request *three*

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The parties conferred and, subject to the Court's approval, stipulated that Plaintiff would have until July 9 to file its amended complaint and Defendants would have until September 7 to respond. The Court has inherent authority to grant the parties' stipulated scheduling order, which is reasonably calculated to promote an "efficient and expedient resolution" of the case.³

Dated: June 16, 2021

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years earlier does not constitute service of a motion to dismiss and therefore does not trigger the 21-day window to amend as a matter of right under Rule 15(a)(1)(B)).

³ *Dietz v. Bouldin*, US , 136 S. Ct. 1885, 1892 (2016).

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